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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 6001/2024**

**MAHIPAL SINGH**

..... Petitioner

Through: **Mr. Anuj Kumar Garg and Ms. Parul Verma, Advs.**

versus

**MUNICIPAL CORPORATION OF DELHI**

..... Respondent

Through: **Mr. Ajjay Arora, Mr. Kapil Dutta, Mr. Vansh Luthra, Mr. Simran Arora and Ms. Nidhi Sharma, Advs. for MCD.**

**CORAM:**

**HON'BLE MR. JUSTICE SACHIN DATTA**

**ORDER**

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**29.04.2024**

**CM APPL.24903/2024 (Exemption)**

Allowed, subject to all just exceptions.

Application stands disposed of.

**W.P.(C) 6001/2024 and CM APPL.24904/2024 (Stay)**

1. The present petition seeks that the respondent/MCD be restrained from taking any coercive action in the shape of demolition/sealing *qua* property No.28, Village Garhi, New Delhi-110065 without due process of law.
2. A writ petition being W.P.(C) 5521/2024 which was earlier filed by the petitioner, was disposed of *vide* order dated 22.04.2024. The same reads as under:

*“3. The present petition seeks that the respondent/MCD be restrained from taking any coercive action in the shape of demolition/sealing *qua* the property No.28, Shera Mohala, Village Garhi, New Delhi without*

*W.P.(C) 6001/2024*

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*adopting the due process of law.*

*4. Learned counsel for the MCD, who appears on advance notice submits that demolition order qua the property has already been passed and has also been passed on the property in question.*

*5. Learned counsel for the petitioner submits that copy of the demolition order has not been provided to him. Learned counsel for MCD, while refuting the same, submits that another copy of the demolition order shall be provided to learned counsel for the petitioner during the course of the day.*

*6. Learned counsel for the respondent/MCD submits that the demolition action in respect of the property in question is scheduled to be taken on 25.04.2024.*

*7. Since the aforementioned demolition order with which the petitioner is aggrieved, is admittedly appealable before the ATMCD, this Court is not inclined to entertain the present petition. The same is accordingly, dismissed, however, with liberty to the petitioner to assail the concerned demolition order in accordance with law before the ATMCD.”*

3. Pursuant to the aforesaid order, the petitioner is stated to have approached the ATMCD. However, the ATMCD did not consider the specific request of the petitioner for interim relief and instead passed the following order on 25.04.2024:

*“Status report along with tracking report of the show cause notice and demolition order filed. Copy supplied.*

*Ld. Counsel for the appellant pointed out that no show cause notice was served upon the appellant but the tracking report submitted along with the status report clearly shows that the show cause notice was duly delivered upon the appellant on 27.03.2024 but the appellant did not file any reply.*

*Ld. Counsel for the appellant submits that the bill of the electricity connection installed at the first floor of the property has been annexed at page no.46 of the appeal.*

*AE(B) is directed to verify the said electricity connection and file status report that where and in which part of the property in question, the said electricity meter has been installed? It shall also be mentioned in the status report, as to whether the said portion is part of the portion in which construction has been raised on part of some other portion?*

*Status report along with photograph be filed on the next date of*



*hearing.*

*Re-notify for filing status report and disposal of this appeal on 02.05.2024.”*

4. Thereafter, the petitioner filed an appeal under Section 347-D of DMC Act, 1957 in which the concerned Principal District & Sessions Judge passed the following order dated 27.04.2024:

*“Heard. File perused.*

*Notice of the appeal and of the applications under Section 151 CPC be issued to the respondent on filing PF and RC as well as through email returnable on 20.05.2024.”*

5. The petitioner is aggrieved by the fact that his request for interim relief has not been considered either by the ATMCD or by the concerned Principal District & Sessions Judge, and yet MCD is proceeding to take demolition action qua the property in question.

6. This court is not inclined to entertain the present writ petition since the ATMCD is already seized of the same issues which have been sought to be agitated in the present petition. However, liberty is granted to the petitioner to file an urgent application seeking interim relief/s before the ATMCD, which shall be duly considered by the ATMCD in accordance with law.

7. In view of the urgency emphasized by learned counsel for the petitioner, it shall be open to the petitioner to mention the matter before the ATMCD whereupon the ATMCD shall pass appropriate orders after taking into account the facts and circumstances of the case.

8. It is made clear that this court has not expressed any opinion as regards the merits of the aforesaid application that may be filed by the petitioner.



9. With the aforesaid observations, the present petition stands disposed of.
10. Copy of the order be given *dasti* under the signature of court master.

**APRIL 29, 2024/cl**

**SACHIN DATTA, J**